

1 JOSEPH P. RUSSONIELLO (CABN 44332)
United States Attorney

2 BRIAN J. STRETCH (CABN 163973)
3 Chief, Criminal Division

4 GARTH HIRE (CABN 187330)
Assistant United States Attorney

5 1301 Clay Street, Suite 340-S
6 Oakland, California 94612-5217
Telephone: (510) 637-3929
7 Facsimile: (510) 637-3724
E-Mail: Garth.Hire@usdoj.gov

8 Attorneys for Plaintiff

9
10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 OAKLAND DIVISION

13 UNITED STATES OF AMERICA,)	No. CR 06-00189 SBA
)	
14 Plaintiff,)	STIPULATION AND ORDER
)	CONTINUING STATUS CONFERENCE
15 v.)	AND EXCLUDING TIME
)	
16 EDDIE SHERMAN THOMAS, and)	
17 ANTOINE DEMETRIUS SMITH,)	
)	
18 Defendants.)	

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20 Plaintiff, by and through its attorney of record, and defendants, by and through their
21 attorneys of record, hereby stipulate and ask the Court to find as follows:

22 1. A status conference in this matter is currently scheduled for 9 a.m. on Tuesday,
23 March 4, 2008.

24 2. The parties request that this hearing be continued until 9 a.m. on Tuesday, April
25 1, 2008, in order to provide counsel for the government and defendants with additional time to
26 evaluate the evidence in this case and determine whether or not defendants should enter a change
27 of plea or file motions and to prepare for trial in this matter.

28
STIPULATION AND PROPOSED ORDER RESCHEDULING
HEARING AND EXCLUDING TIME

1 3. Specifically, on February 27, 2008, defendant Thomas' counsel produced
2 voluminous medical records regarding defendant Thomas' physical condition that impact the
3 manner in which the case will proceed or resolve. The government requires additional time to
4 review and analyze these medical records and assess their impact on the matter. In addition,
5 counsel for defendant Thomas has been, and is presently, engaged in a lengthy murder trial in
6 Alameda County Superior Court (*People v. Hans Reiser*) and will not be available for the status
7 conference on March 4, 2008, in any event. Also, on February 27, 2008, a federal grand jury
8 returned an indictment against defendant Smith in the matter of *United States v. Antione*
9 *Demetrius Smith*, CR 08-00110 DLJ, for possession with intent to distribute crack cocaine and
10 marijuana that is unrelated – as defined in Local Rule 8.1(b) – to this case and which was
11 previously the subject of plea negotiations between defendant Smith's counsel and counsel for
12 the government. Counsel for defendant Smith requires additional time to assess the impact of
13 the newly returned indictment on how and whether defendant Smith should proceed to trial in
14 this case. In addition, counsel for defendant Smith would like to arrange for defendant Smith to
15 be arraigned before United States Magistrate Judge Joseph C. Spero in San Francisco on March
16 4, 2008 (the same day as the presently scheduled status conference in this case) because he is
17 scheduled to be there for a detention hearing in another matter and because United States
18 Magistrate Judge Wayne D. Brazil is unavailable for arraignment in Oakland from March 3
19 through 7, 2008.

20 4. Thus, the parties respectfully request that the Court find that the time period from
21 March 4, 2008, to April 1, 2008, is excludable pursuant to 18 U.S.C. §§ 3161(h)(8)(A), (B)(iv)
22 because it results from a continuance granted by the Court at the defendants' request and on the
23 basis of the Court's finding that the ends of justice served by taking such action outweigh the
24 best interest of the public and the defendants in a speedy trial and because failure to grant the

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4 continuance would unreasonably deny defense counsel the time necessary for effective
5 preparation for trial, taking into account due diligence.

6 IT IS SO STIPULATED.

7 JOSEPH P. RUSSONIELLO
8 United States Attorney

9 Dated: March 3, 2008

10 /s/
11 GARTH HIRE
12 Assistant United States Attorney
13 Attorney for United States of America

14 Dated: March 3, 2008

15 /s/
16 RICHARD TAMOR
17 Attorney for Defendant
18 Eddie Sherman Thomas

19 Dated: March 3, 2008

20 /s/
21 GARRICK LEW
22 Attorney for Defendant
23 Antoine Demetrius Smith
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1 [PROPOSED] ORDER

2 FOR GOOD CAUSE SHOWN, THE COURT ADOPTS THE FINDINGS OF FACT AND
3 CONCLUSIONS OF LAW STIPULATED TO BY THE PARTIES. THEREFORE, IT IS SO
4 FOUND AND ORDERED THAT:

5 1. The currently scheduled March 4, 2008, status conference hearing is vacated. A
6 status conference hearing is now scheduled for 9:00 a.m. on April 1, 2008.

7 2. The time period from March 4, 2008, to April 1, 2008, is deemed excludable
8 pursuant to 18 U.S.C. §§ 3161(h)(8)(A), (B)(iv) because it results from a continuance granted by
9 the Court at the defendants' request and on the basis of the Court's finding that the ends of
10 justice served by taking such action outweigh the best interest of the public and the defendants in
11 a speedy trial and because failure to grant the continuance would unreasonably deny defense
12 counsel the time necessary for effective preparation for trial, taking into account due diligence.
13 The Court finds that nothing in this stipulation and order shall preclude a finding that other
14 provisions of the Speedy Trial Act dictate that additional time periods are excludable from the
15 period within which trial must commence.

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17 DATED: 3/4/08

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HONORABLE SAUNDRA BROWN ARMSTRONG
UNITED STATES DISTRICT JUDGE